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PROGRAM GUIDANCE

PROGRAM: Indian Community Development Block Grant (ICDBG)

FOR: Tribal Government Leaders and Tribally Designated Housing Entities
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FROM: Heidi J. Frechette, Deputy Assistant Secretary for Native American Programs, PN

TOPIC: Imminent Threat Grants

PURPOSE: This Guidance summarizes the Indian Community Development Block Grant (ICDBG) Imminent Threat (IT) program. It describes the criteria for the program, includes examples of funded applications, and explains the procedures for requesting such funds.

BACKGROUND: HUD is authorized to reserve a portion of ICDBG funds for IT grants. IT grants are intended to alleviate or remove imminent threats to health or safety. The problem to be addressed must be such that an emergency situation exists or would exist if the problem were not addressed. The grants must address problems of an urgent nature that were not evident at the time of the ICDBG single-purpose funding grant cycle, or that require immediate action. The amount of funds reserved for IT each year is stated in the ICDBG Notice of Funding Availability (NOFA).

The grant ceiling for imminent threat requests is \$450,000, or \$900,000 for Presidentially declared disasters. The regulations for the program can be found at 24 CFR Part 1003, Subpart E.

IT grants are awarded on an as-needed basis until all funds are used. You do not have to wait for the annual ICDBG NOFA to be posted to request IT funds. If an urgent situation arises in your tribal area, IT funds might be able to address it. The request must, however, be made within a reasonable time from the event or discovery of the threat.

CRITERIA FOR AWARDS: IT grant funds can only be used to address threats that require an immediate solution. The threat must be unique and unusual and not something that the tribe has known about for a long time. It must also impact the entire tribal service area, not just a few homes.

APPLICANT ELIGIBILITY: Tribes and tribal organizations may apply for IT grants if they meet the definition of such entities in the ICDBG regulation at 24 CFR §1003.5, at the time of application. An Indian tribe must be listed on the most current list of “Indian Entities Recognized and Eligible to Receive Service from the United States Bureau of Indian Affairs.” Tribal organizations must be eligible under the Title I of the Indian Self-Determination and Education Assistance Act as determined by the Bureau of Indian Affairs (BIA) or the Indian Health Service (IHS). Tribal organizations must submit a copy of this determination with the application unless they have already submitted such to HUD.

PROJECT/ACTIVITY ELIGIBILITY: IT grants are subject to the same ICDBG eligibility requirements found at 24 CFR Part 1003, Subpart C. Activities that cannot be funded with competitive ICDBGs cannot be funded with IT funds. However, in accordance with 24 CFR §1003.200, IT grants do not have to comply with the program’s primary objective requirements at 24 CFR §1003.208.

APPLICATION PROCEDURE: Prior to submitting an application for IT funds, you should contact your Area Office of Native American Programs (ONAP) to determine if IT funds are available, and if the situation in your area constitutes a threat to health and safety as defined in the ICDBG regulation. A contact list can be found on the ONAP website: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/onap/map/nationalmap. Following the discussion with the Area ONAP, if IT funds are available and you believe your situation meets the criteria for an IT grant, email the following information to the Area ONAP Administrator for your region. All forms needed to apply can be found on Codetalk under “Imminent Threat Grant Forms” at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/grants/icdbg. Do not submit IT applications through www.grants.gov.

CONTENT OF APPLICATION: The application must include the following:

- Standard Form-424 (Application for Federal Assistance)
- Information that shows that:
 - ~ The threat is not of a recurring nature (conditions caused by lack of maintenance are recurring).
 - ~ The threat affects or impacts an entire service area as defined at 24 CFR §1003.4. Specify the number of homes/families affected and/or impacted.
 - ~ The proposed project is feasible and has a reasonable chance of alleviating the imminent threat.
- HUD-2880 (Application/Disclosure/Update Report)
- Independent verification from a qualified third party not affiliated with your organization that the threat is urgent, exists at present, or will exist very soon and must be addressed immediately to save lives and reduce threats to health and safety. Such third parties could be representatives of the IHS, BIA, Federal Emergency Management Agency (FEMA), state, county, or local officials, or engineers privately employed.

- Detailed budget information and a completed form HUD-4123 (Cost Summary).
- Evidence that you can implement and complete the funded project within 24 months of the grant award unless there is good cause, determined by HUD, for not being able to do so. Submit a form HUD-4125 (Implementation Schedule).
- Evidence that funds to completely address the threat are not available from other tribal or federal sources to address the problem. You must verify that federal or tribal agencies, which would normally provide assistance for such improvements, have no funds available, by providing a written statement to that effect. You must also verify in writing that you have no available funds, including unobligated IHBG funds, for this purpose. To determine IHBG obligation, HUD will follow Notice PIH 2002-24, *Performance Measures for the Obligation of Funds (NAHASDA)*. According to that Notice, a point of obligation is the time when a commitment is made to pay a particular sum of money for contract labor, supplies, materials, or services.

LETTER TO PROCEED: Prior to approving the application formally, your Area ONAP may issue a Letter to Proceed, which will enable you to incur costs to alleviate the threat quickly if the activities do not impact the environment. You will only be reimbursed for such costs if HUD approves the formal application. This letter will also tell you that expedited procurement procedures might apply to your activity and explain the environmental requirements for these grants.

EXAMPLES OF IMMINENT THREAT REQUESTS: Three recent IT grants are summarized below.

- A grant of \$410,710 was awarded in 2015 for waste water treatment plant repairs. The tribe was facing a sanitation deficiency from the erosion of the sea shore near the outfall of the plant. Funds were used to excavate soil above the washed out sections, place a riprap (foundation of loose stones) parallel to the shoreline, install geotextile materials between the riprap and the trench and place rockfill of sufficient size to shore up the unstable manhole.
- A grant of \$271,962 was awarded in 2014 to alleviate immediate threats due to river erosion after unusual spring weather, ice breakup, and heavy rains. Many homes were affected. IT grant funds were used to mitigate river erosion effects on the boat landing area, public utilities, electrical lines, and power poles. Additionally, funds were used to relocate five homes that were in the erosion area.
- A grant of \$900,000 was awarded in 2013 to connect water and sewer systems to homes damaged by flooding. The flood was declared a federal disaster by FEMA.

FINAL REVIEW AND APPROVAL: Your Area ONAP will review your application and then forward it to ONAP Headquarters for final approval. If both offices agree that your area is facing an IT as defined in the ICDBG regulation, your Area ONAP will send a Grant Approval Letter and form HUD-52734, (Funding Approval/Agreement) to the person designated in item 8F of form SF-424 with a copy to the person listed as the authorized representative in item 21 of form SF-424.

REGULATORY REQUIREMENTS: If you receive an IT grant you will be required to comply with the applicable regulatory requirements of the competitive ICDBG program. Specifically, you will be required to report on your progress on an Annual Status and Evaluation Report (ASER) and on your spending on an SF-425, the Federal Financial Report. ONAP will also consider your progress on completion of your IT project(s) when rating future competitive (Single Purpose) ICDBG grants.

ADDITIONAL IMMINENT THREAT FUNDS: The ICDBG regulation at 24 CFR §1003.305(d) allows tribes/tribal organizations to amend an existing Single Purpose ICDBG to fund imminent threats to health and safety. The process for submitting an amendment to a current ICDBG is explained in 24 CFR §1003.305. If HUD approves an amendment of your existing Single Purpose grant, you can apply for an IT grant to address the threat as well.

ADDITIONAL INFORMATION: Contact your Area ONAP if you have any questions about the IT grant application process.